

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ULUOCHA AMAECHI,	:	Civil No. 1:21-CV-1177
	:	
Plaintiff,	:	
	:	(Judge Kane)
v.	:	
	:	
DISTRICT COUNCIL 89, et al.,	:	(Magistrate Judge Carlson)
	:	
Defendants.	:	

MEMORANDUM AND ORDER

The background of this order is as follows:

The plaintiff, who was initially proceeding *pro se*, commenced this action by a complaint. (Doc. 1.) Defendant District 89 then filed a motion to dismiss the *pro se* complaint. (Doc. 5.) The plaintiff has now filed an amended complaint, which deletes and adds parties. (Doc. 18.) Rule 15(a) of the Federal Rules of Civil Procedure, which governs amendment of pleadings strongly favors amendment of pleadings, and provides that such leave to amend should be liberally granted “when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Accordingly, IT IS ORDERED as follows:

1. The plaintiff’s amended complaint, (Doc. 18), will be lodged by the clerk as the amended complaint in this matter.

2. The plaintiff is advised that any further amendments will only be permitted if the plaintiff first seeks leave of court.
3. The plaintiff is ordered to make timely service of the amended complaint upon the newly named defendants in accordance with the Federal Rules of Civil Procedure.
4. We believe that this development has substantive significance for the parties with respect to the pending motion to dismiss the original complaint filed by District 89 since, as a matter of law, an amended complaint takes the place of the original complaint, effectively invalidating the original complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) ("[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect"); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 1476 (2d ed. 1990) ("A pleading that has been amended ... supersedes the pleading it modifies.... Once an amended pleading is interposed, the original pleading no longer performs any function in the case...."). Therefore, since Amaechi's initial complaint is now a legal nullity the

defendant's motion to dismiss that initial complaint, (Doc. 5), is
DISMISSED as moot.

5. However, leave to amend is granted without prejudice to the assertion of any defenses or dispositive motions that the defendants may believe are appropriate with respect to the amended complaint, including renewal of the motion to dismiss filed by District 89 with respect to this amended complaint.

SO ORDERED, this 24th day of September 2021.

/s/ Martin C. Carlson

Martin C. Carlson

United States Magistrate Judge